

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HERSCHENIA BROWN, an individual,

Plaintiff,

V.

ABM LAKESIDE, INC., a California corporation

Defendants.

FILED: AUGUST 20, 2008

08CV4736

JUDGE GUZMAN

MAGISTRATE JUDGE MASON

Case No.

PH

JURY DEMANDED

COMPLAINT AT LAW

NOW COMES, Plaintiff, HERSCHENIA BROWN (hereinafter “Brown”), by and through her attorneys, Belongia & Shapiro, LLP, and for her Complaint at Law against Defendant ABM LAKESIDE, Inc. (hereinafter “Defendant”), states as follows:

INTRODUCTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000(e) et seq. (“Title VII”), Title I of the Civil Rights Act of 1991, 42 U.S.C §1981(a), and the Civil Rights Act of 1866, 42 U.S.C. §1981 to correct unlawful employment practices on the basis of race and to provide appropriate relief to Brown. Brown alleges that Defendant has engaged in an ongoing pattern or practice of race discrimination against her, as an African-American employee, which included the following discriminatory treatment: being ridiculed by a non-African-American Office Manager’s caricature drawing resembling Brown’s “crying” face, being demoted after her return from medical leave, being repeatedly subjected to derogatory racial comments by her former non-African-American Billing Manager, and being subjected to unequal terms and conditions of

employment with respect to duties assigned and manner of supervision, and by being denied time off for a medical appointment.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1337. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, Section 102 of the Civil Rights Act of 1991 and the Civil Rights Act of 1866.

2. Venue is proper in the United States District Court for the Northern District of Illinois pursuant to 28 U.S.C. §1391 because the unlawful conduct alleged herein was committed within the boundaries of the Northern District of Illinois.

PARTIES

3. Plaintiff HERSCHENIA BROWN is an adult African-American female and resident of Cook County, Illinois.

4. Defendant ABM LAKESIDE, a/k/a ABM Janitorial, is a California corporation qualified to do business in Illinois.

5. At all times pertinent to this action Defendant had a place of and conducted business in Chicago, Illinois.

COUNT I

Section 1981 Action for Race Discrimination

1-5. Brown's hereby restates and realleges paragraphs 1-5 as if set forth fully herein as paragraphs 1-5 of Count I.

6. Brown was an employee of Defendant from February 13, 2006 to December 8, 2006.

7. Until September 13, 2006, Brown held a position of a Billing Coordinator. After September 25, 2006, Brown was assigned to an inferior level position pertaining to filing duties.

8. During her employment with Defendant, Brown was repeatedly subjected to various racial harassments and unequal terms and conditions of employment with respect to duties assigned and manner of supervision.

9. In particular, Brown was ridiculed and discriminated against based on her race by a non-African-American Office Manager's caricature drawing resembling Brown's "crying" face.

10. On July 20, 2006, Brown participated in a company meeting at which she became upset and cried. Shortly after the meeting, Brown noticed a caricature drawing of her "crying" face hanging in the non-African-American Office Manager's office. The drawing resembled facial features of an individual of African-American race.

11. Brown alerted her supervisor of the drawing, and informed the supervisor that she felt offended and humiliated because of it.

12. The supervisor dismissed Brown's comments and allowed the drawing to remain hanging in the non-African-American Office Manager's office.

13. Upon information and belief, the caricature was intended to resemble and ridicule Brown in the act of crying during the meeting on July 20, 2006.

14. Due to the increased stress and anxiety brought upon by Defendant's actions in the work place, Brown was forced to miss days from work.

15. As a result of working in a harassing environment, Brown developed medical condition that forced her to take a medical leave.

16. From September 13, 2006 through September 25, 2006, Brown was on a medical leave. During that time, Defendant assigned Brown's job duties to a temporary employee.

17. The temporary employee was a non-African-American.

18. After Brown returned from her medical leave, she was not allowed to assume her previously held job duties. Instead, Brown was assigned to a position of an inferior level pertaining to filing duties.

19. On or about October 9, 2006, a non-African-American temporary employee assumed Brown's position while she was on medical leave.

20. The non-African-American temporary employee was subsequently permanently hired.

21. The non-African-American temporary employee continued to hold a position previously assumed by Brown. At the same time Brown was forced to perform job duties of inferior position, such as filing duties, in relation to her original position of a Billing Coordinator.

22. Brown was demoted after her return from medical leave from a position of a Billing Coordinator to an inferior position pertaining to filing duties.

23. As a result, Brown was denied promotions and/or the opportunity to even pursue promotions to better paying positions, while non-African-American employee who was less qualified and had less tenure with Defendant was hired to take Brown's position and was allowed to pursue promotions to better paying positions.

24. Defendant denied coverage for Brown's necessary medical leave. Upon information and belief, other non-African-American employees in a similar position were not denied the same benefits.

25. On October 12, 2006, Brown filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC") alleging race discrimination against ABM Janitorial Services. (Charge of Discrimination, attached hereto as Plaintiff's Exhibit "A").

26. On December 8, 2006, Defendant terminated Brown's employment..

27. Upon information and belief, Brown was discharged in retaliation of her opposition to discrimination.

28. Brown requested and was awarded a Right to Sue letter which she received on June 7, 2008.

29. As a direct and proximate cause of the actions by Defendant, Brown has suffered intimidation, humiliation, embarrassment, emotional distress, mental anguish, tarnish to her outstanding personal reputation, tarnish to her business reputation, and loss much time of her employment, thereby incurring losses of large sums of money, including wage loss.

WHEREFORE, Brown, HERSCHENIA BROWN, requests judgment against Defendant ABM LAKESIDE for compensatory damages in excess of \$100,000, plus punitive damages, the costs of this action, attorneys' fees and such other and additional relief as this court deems equitable and just.

Respectfully submitted,
HERSCHENIA BROWN

/s/ Kelly A. Saindon
One of Plaintiff's Attorneys

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53 West Jackson Blvd., Suite 315
Chicago, Illinois 60604
Tel: 312-662-1030
Fax: 312-662-1040

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

440-2007-00203

Illinois Department Of Human Rights

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Herschenia Brown

Home Phone (Incl. Area Code)

(708) 757-1355

Date of Birth

10-24-1976

Street Address

City, State and ZIP Code

21784 Peterson Street, Sauk Village, IL 60411

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

ABM JANITORIAL SERVICES

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(312) 795-0500

Street Address

City, State and ZIP Code

180 North Lasalle Street, Chicago, IL 60601

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)
DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**03-31-2006****10-11-2006**☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I have been employed by Respondent since February 13, 2006. As of September 25, 2006, my current position title is unknown. I was a Billing Coordinator until September 13, 2006. While I was on medical leave from September 13, 2006 through September 25, 2006, Respondent assigned my former job duties to a temporary employee who was subsequently hired as a permanent employee on or about October 9, 2006. I have been currently assigned filing duties. Since the end of March, 2006, I have been repeatedly subjected to harassment and different terms and conditions of employment by Respondent's non-Black management staff in the Accounting Department. I have been subjected to derogatory racial comments by the former non-Black Billing Manager; I am being scrutinized by my non-Black supervisor; I have been instructed not to hold personal conversations with my co-workers; a few days after a Billing meeting on July 20, 2006 at which I became upset and cried, I noticed a caricature drawing of a "crying" face hanging in the non-Black Office Manager's office; and I was denied time off for a medical appointment until I accrue vacation time. Further, I developed a medical condition as a result of working in this harassing environment, for which I was on medical leave from September 13, 2006 through September 25, 2006. Respondent is self-insured and I was denied paid coverage for the above-referenced medical leave.

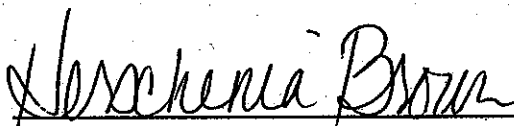
I believe I have been discriminated against because of my race, Black, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Oct 12, 2006

Date



Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS DATE
(month, day, year)

OCT 12 2006

EXHIBIT

ALL-STATE LEGAL

CHARGE OF DISCRIMINATION

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Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA
☒ EEOC

440-2007-01935**Illinois Department Of Human Rights**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Herschenia Brown

Home Phone (Incl. Area Code)

(708) 757-1355

Date of Birth

10-24-1976

Street Address

City, State and ZIP Code

21784 Peterson Street, Sauk Village, IL 60411

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

ABM JANITORIAL SERVICES

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(312) 795-0500

Street Address

City, State and ZIP Code

180 North Lasalle Street, Chicago, IL 60601

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

12-08-2006**12-08-2006**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I began my employment at Respondent on February 13, 2006. My most recent position was Billing Co-ordinator. On October 12, 2006, I filed EEOC charge number 440-2007-00203. On December 8, 2006, I was terminated.

I believe I have been retaliated against, in violation of Title VII of the Civil Rights Act of 1964, as amended.

RECEIVED EEOC
DEC 19 2006
CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

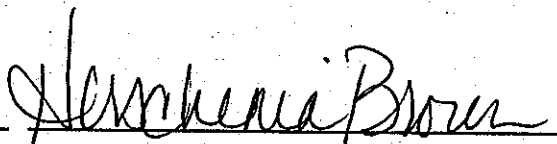
I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Dec 19, 2006

Date



Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)